

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PAUL WILLIAM BRUGLIA,

Plaintiff,

v.

WASHINGTON STATE PATROL, et al.,

Defendants.

CASE NO. C13-5891 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION IN  
PART, GRANTING QUALIFIED  
IMMUNITY, AND REVOKING  
PLAINTIFF'S *IN FORMA*  
*PAUPERIS STATUS*

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 24), and Plaintiff Paul William Bruglia's ("Bruglia") objections to the R&R (Dkt. 24).

On April 8, 2014, Judge Creatura issued the R&R recommending that the Court grant Defendants' motion for summary judgment because Defendants are immune from suit in federal court, Bruglia is challenging facts that underpin his conviction, and Defendants are immune under RCW 4.24.420. Dkt. 23. On April 29, 2014, Bruglia filed objections to the section of the R&R concluding that Bruglia is challenging facts underpinning his conviction. Dkt. 24.

1 The district judge must determine de novo any part of the magistrate judge's  
2 disposition that has been properly objected to. The district judge may accept, reject, or  
3 modify the recommended disposition; receive further evidence; or return the matter to the  
4 magistrate judge with instructions. Fed. R. Civ. P. 72 (b)(3).

5 In this case, Bruglia objects to the portion of the R&R that concludes that  
6 Bruglia's § 1983 excessive force claim necessarily implies the invalidity of his conviction  
7 for vehicular assault. Dkt. 24. The objection is well taken because the commission of a  
8 violent crime does not, in and of itself, justify an officer's use of deadly force. *Tennessee*  
9 *v. Garner*, 471 U.S. 1 (1985). Moreover, a finding that the officer used excessive force at  
10 some point during the lengthy pursuit does not necessarily imply that Bruglia was not  
11 guilty of vehicular assault at some other point during the pursuit. Therefore, the Court  
12 declines to adopt this portion of the R&R.

13 However, Defendant Chatterton is clearly entitled to qualified immunity. In an  
14 almost identical case also involving video of a high speed pursuit, the Supreme Court  
15 concluded that the officer was entitled to qualified immunity. *See Scott v. Harris*, 550  
16 U.S. 372 (2007). Based on the record in this case, including Bruglia's stipulated facts  
17 (Dkt. 15 at 5–10) and the video of the chase, the Court concludes that Chatterton's  
18 actions were objectively reasonable.

19 Therefore, the Court having considered the R&R, Bruglia's objections, and the  
20 remaining record, does hereby find and order as follows:

21 (1) The R&R is **ADOPTED** in part;  
22

1 (2) Defendants' motion for summary judgment is **GRANTED** on the issues of  
2 Eleventh Amendment immunity, qualified immunity, and RCW 4.24.420  
3 immunity;

4 (3) This action is **DISMISSED**; and

5 (4) Bruglia's *in forma pauperis* status is **REVOKED** for purposes of appeal.

6 Dated this 29th day of May, 2014.

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9 BENJAMIN H. SETTLE  
United States District Judge